



Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor Name and Address:	MFDR Tracking #: M4-10-1683-01
KINGWOOD MEDICAL CENTER 3701 KIRBY DRIVE SUITE 1288 HOUSTON TX 77098	DWC Claim #:
	Injured Employee:
Respondent Name and Box #:	Date of Injury:
LIBERTY MUTUAL FIRE INSURANCE Box #: 01	Employer Name:
	Insurance Carrier #:

PART II: REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The claim presented by the Provider was billed in the same manner and at the same rates that it would bill any health plan, insurer, or other medical bill payor. There is no evidence provided by the carrier that the disputed charges were not billed at the hospital's usual and customary rate. The issuance of an Explanation of Benefits is not evidence of an audit or proof of the validity of the carrier's reduction methodologies. It represents nothing more than a carrier's substitution of figures that it likes better than the usual and customary charges that this Provider uses for all payor. This claim is an attempt by the Carrier to circumvent the express provisions of the DWC's Hospital Facility Fee Guideline for outpatient services."

Amount in Dispute: \$5,594.62

PART III: RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The provider billed the unlisted code of 29999 for services that would be reported under CPT 29826, per the operative report, the claimant underwent a diagnostic arthroscopy of the right shoulder with subtotal bursectomy. The physician who performed the surgery billed and was paid for CPT 29826, therefore the provider was reimburse per the CPT code that the operating physician billed for the date of service. Please note that the OPPS rate for CPT 29999 is considerably lower than for 29826. The provider has a PPO Contractual agreement with Coventry First Health for which they are seeking additional reimbursement based on the terms of their contract; however, no contractual agreement was submitted or reviewed to verify the correct allowance. If the provider can fax their PPO agreement to... we can review and make any necessary adjustments."

PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
11/14/2008 11/18/2008	Hospital Outpatient Services	\$1,833.56 x 200% = \$3,667.12 + \$12.03 (Fee Schedule) - \$4517.76 (carrier payment)	\$5,594.62	\$0.00
Total Due:				\$0.00

PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, effective for medical services provided in an outpatient acute care hospital on or after March 1, 2008, set out the reimbursement guidelines for hospital outpatient services.

This request for medical fee dispute resolution was received by the Division on November 13, 2009.

1. For the services involved in this dispute, the respondent reduced or denied payment with reason code:
 - 16 – X936 – CPT or HCPCS is required to determine if services are payable..
 - 45 – Z547 – This bill was reviewed in accordance with your fee for service contract with First Health. This reimbursement may reflect payment at rates less than your discounted contract rate in accordance with your PPO network contract and our access agreement with them.
 - 42 – Z710 – PA – The charge for this procedure exceeds the fee schedule allowance. First Health.
 - 24 – P303 – This service was reviewed in accordance with your contract.
 - 150 – Z652 – Recommendation of payment has been based on a procedure code which best describes services rendered.
 - 42 – U634 – Procedure code not separately payable under Medicare and or fee schedule guidelines.
 - D20 – B291 – This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed.
2. According to the explanation of benefits, the services in dispute were paid using a contracted fee arrangement. Tex. Lab. Code Ann. §413.011(d-3) states that the division may request copies of each contract under which fees are being paid, and goes on to state that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division. Neither the requestor or respondent provided a copy of the requested documentation. For that reason, the disputed health care will be reviewed in accordance with 28 Tex. Admin. Code §134.403.
3. Division rule at 28 TAC §134.403(e) states, in pertinent part, that "Regardless of billed amount, reimbursement shall be:
 - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code 413.011; or
 - (2) if no contracted fee schedule exists that complies with Labor Code 413.011, the maximum allowable reimbursement (MAR) amount under subsection (f), including any applicable outlier payment amounts and reimbursement for implantables;"
4. Pursuant to Division rule at 28 TAC §134.403(f), "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*. The following minimal modifications shall be applied.
 - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
 - (A) 200 percent; unless
 - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent."
5. Under the Medicare Outpatient Prospective Payment System (OPPS), all services are classified into groups called Ambulatory Payment Classifications (APCs). Services in each APC are clinically similar and require similar resources. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Within each APC, payment for ancillary and supportive items and services is packaged into payment for the primary independent service. Packaged services are considered integral to the primary paid service and are not separately reimbursed. An OPPS payment status indicator is assigned to each HCPCS code. The status indicator for each HCPCS code is shown in OPPS Addendum B, and a full list of status indicators and their definitions is published in Addendum D1 of the OPPS proposed and final rules each year, both of which are publicly available from the Centers for Medicare and Medicaid services.
6. According to 134.403(h) for medical services provided in an outpatient acute care hospital, but not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2) of this section and for which Medicare reimburses using other Medicare fee Schedule, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. Review of the UB-04 documents the requestor billed CPT Codes 36415, 85018 and 85014. These codes are considered Status A codes. Status A codes are paid under a fee schedule or with a prospectively pre-determined rate. Status A codes are paid according to Tx. Admin. Code Section §134.203.
7. Upon review of the documentation submitted by the Requestor and Respondent, the Division finds that:
 - (1) No documentation was found to support a contractual agreement between the parties to this dispute;
 - (2) MAR can be established for these services; and
 - (3) Separate reimbursement for implantables was NOT requested by the requestor.

8. Consequently, reimbursement will be calculated in accordance with Division rule at 28 TAC §134.403(f)(1)(A) as follows:

APC	Outlier Amount	Separate reimbursement for implantables WAS NOT requested under Rule §134.403	APC X 200%	Fee Schedule (CMS x 1.25%)	Less amount paid by Respondent	Additional amount due Requestor
\$1,833.56	\$0.00	\$0.00	\$3,667.12	\$12.03	\$4,517.76	\$0.00

Based upon the documentation submitted by the parties and in accordance with Texas Labor Code §413.031(c), the Division concludes that the requestor is not due additional payment. As a result, the amount ordered is \$0.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code §413.011(a-d), §413.031 and §413.0311
28 Texas Administrative Code §133.305, §133.307, §134.203, §134.403
Texas Government Code, Chapter 2001, Subchapter G

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

DECISION:

_____	_____	March 14, 2011
Authorized Signature	Medical Fee Dispute Resolution Officer	Date

PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.